

## **MINUTES**

### **ETHICS REVIEW COMMISSION MEETING NOVEMBER 13, 2013 CITY COUNCIL CHAMBERS**

#### **MEMBERS PRESENT**

Audrey Marrufo, District #2  
Eduardo Miranda, District #3  
Julian Gonzalez-Herrell, District #4  
Kimberly Cook McDaniel, District #5  
William H. Rivera, District #8

#### **MEMBERS ABSENT**

Maxey Scherr, Mayoral  
Francisco Ortega, District #1  
Anthony Giuliani, District #7

#### **OTHERS PRESENT**

Sylvia Borunda Firth, City Attorney  
Kathryn Murphy, Recording Secretary  
Alexandra Huitron, Intern, Legal Department

#### **1. CALL TO ORDER.**

Seeing a quorum, the meeting was called to order at 6:14 p.m. Ms Firth opened the meeting by welcoming the members and thanking them for attending.

#### **2. APPROVAL OF MINUTES FOR DECEMBER 15, 2011.**

Ms. Firth stated that since the members of the Commission were new and if they were uncomfortable approving the minutes, it can be set aside for the next time the commission meets.

Mr. Herrell moved to approve the minutes of December 15, 2011. Mr. Rivera seconded motion, all in favor and the motion passed unanimously.

#### **3. ELECTION OF CHAIR AND VICE-CHAIR.**

Mr. Miranda asked whether the Commission had to appoint someone permanently going forward or can we nominate and appoint someone for the purpose of this meeting since only 5 members were present; maybe it would be preferable to wait until the entire Commission, or more than a quorum was present before we go ahead and appoint. Ms Firth responded that was fine if they wanted to appoint someone just for this meeting.

Mr. Herrell nominated Mr. Miranda to conduct meeting today. Mr. Miranda accepted the nomination to act as Chair for this meeting.

#### **4. PRESENTATION BY CITY ATTORNEY REGARDING PURPOSE OF EL PASO ETHICS REVIEW COMMISSION.**

Ms. Firth stated The Ethics Commission is very important and becomes more and more important as time goes by. She stated that the State Ethics Commission will be in town doing

training for the community and there will be a presentation at UTEP from 8:30 am to 4:00 pm and is free to the public.

Ms. Firth also wanted to remind the commission that the meeting was being recorded in both audio and video media.

#### **5. REVIEW OF EXISTING CITY OF EL PASO ETHICS ORDINANCE.**

Ms. Firth stated she wanted to call attention to city's website regarding Ethics Commission. Mrs. Firth stated there is some thought that a general review of the Ethics Ordinance is needed. City Council would welcome that and we have collected ordinances from other cities in Texas for the Commission's review. She made a presentation on the purpose and mission of the Ethics Review Commission.

#### **6. REVIEW OF CHARTER AMENDMENT RELATING TO CITY ETHICS ORDINANCE AND CITY COUNCIL REQUEST FOR ACTION.**

Ms. Firth gave a presentation to the Commission. Topics covered were as follows:

1. The City Council feels the standard of conduct provisions needs some work and would like the Commission to take a look at these provisions and consider strengthening the provisions. She suggested the Commission look at what other cities have done with regards to Standards of Conduct.
2. There are some restrictions that the Council would like the Commission to look at regarding employees who have left city employment or city office. Presently there is a 24 month prohibition against them coming and lobbying the City. There is the question of whether 24 months is too long or not long enough and if you look at the other cities you will see that there is a variance – some have 2 years and some have 1 year. Council would like to hear from the Commission about that. The restriction is also applicable to employees and not just elected officials. Civil Service Commissioners are also restricted from representing an employee before the Civil Service Commission for 12 months.
3. Reporting requirements-Financial disclosures applies not only to elected officials, but also the City Manager, Department heads, Deputy City Managers. It also applies to members of certain Boards/Committees/Commissions to include the Ethics Review Commission.
4. Gifts-There are reporting requirements in place.
5. Complaint process. The current process is usually the City Clerk receives the complaint and forwards to the City Attorney; the City Attorney has the first read of the complaint and determines whether the person is covered by the Ethic Ordinance or whether the complaint is applicable or not under the Ordinance. If the City Attorney determines the complaint is not applicable under the Ordinance, she will notify the complainant and that's the end of discussion. Complaints do come into the City that go to the Internal Auditors office and there is a hotline to submit complaints. Those reports go to the Internal Auditor and he investigates them and often times the City Attorney will assist.

When we were doing the Charter review there was discussion about having a second review of the complaint and perhaps the City Attorney should report back to the Commission and let you know what the ruling was and why it was made

Mr. Miranda asked whether the complaints under Commission are public records; for example if a member of the public filed a request to receive a copy of the complaints that have been filed. Ms. Firth stated yes they are public records. Mr. Miranda also asked whether there is a database available for people to look at prior advisory opinions. Ms. Firth responded we do not but we could look into adding it to the webpage. We would have to do some research and look for past advisory opinions if that's what the Commission asks us to do.

6. Campaign finances-There is still some discussion on the limitation of when someone can receive campaign contributions; it is still an issue and Council would like the Commission to revisit.
7. Monetary fines by charter amendment. Brief overview of the amendment to the City Charter, approved by the voters that addressed appropriate sanctions, to include monetary fines, for violations of the Ethics Ordinance. One of the things Council is asking the Commission to look into and after the Commission's recommendation the Council would adopt an ordinance.

## **7. DISCUSSION AND ACTION REGARDING RECOMMENDATION FOR MODIFICATION OF THE EL PASO ETHICS ORDINANCE.**

The City Council would like the Commission to consider the following items:

1. General Review of the Ethics Ordinance
2. Charter Amendment addressing the monetary sanctions
3. 2 yr prohibition after leaving office
4. Codes of Conduct regarding civility, diplomacy
5. Limitations on receipt of campaign funds
6. Leaking confidential information – Nothing in Ethics Ordinance at this time

Ms. Firth asked how the Commission would like to handle the projects.

Mr. Miranda asked Ms. Firth's recommendation on how to handle the projects since there were only 5 members present and it seemed to be a lot of work for the 5. He asked whether the tasks could be broken into working panels. Ms. Firth advised that the tasks could be broken up and assigned to different members who would then bring their findings back to the Commission. Mr. Miranda recommended that this be brought back at the next meeting when more members are present so that anyone who has an interest can participate in that panel.

Mr. Herrell had a question regarding when complaints come from the public how does the attorney separate the ethical from the legal; they never seem to get past the City Attorney. Ms. Firth responded she explained the process to the public when she was doing presentations for the Charter Election. She also stated she currently had a complaint on her desk that she needs to make a determination and at the next time the Commission meets she can present her analysis.

She also stated that some complaints are referred to the City Auditor for operational issues. The Charter amendments established the Internal Auditor who reports to the City Manager on a day to day functional basis but to the City Council with regard to audit findings; and he can only be terminated by the City Council.

## **8. DISCUSSION AND ACTION REGARDING FUTURE MEETING DATES AND TIMES.**

Ms. Firth asked when the Commission would like to have meetings and their frequency. Miranda felt had to meet sooner rather than later to appoint and elect the Chair and Vice Chair and to designate either a subcommittee or panel as far the recommendations for changing the ethics ordinance; these are logistical things to be taken care of before the commission gets down to the real work. He recommended meeting in January.

Mr. Herrell recommended meeting in mid December. Commissioners would prefer on Wednesdays at 6:00 pm. The next meeting will be scheduled for December 11, 2013 at 6:00 pm in the Council Chambers.

Mr. Miranda had a general question on the ordinance regarding the provision of hearing officers to hear complaints instead of the Commission. Ms. Firth responded it does allow for a panel of 3 to hear complaints but the commission could explore the issue of getting someone who is not a member of the Commission to act as hearing officer and submit their findings. Ms. Firth stated that's the role of the Commission to hear complaints.

Mr. Herrell stated that was proposed from a previous meeting as a separate position in the City. Firth stated CSC appoints hearing officers but they are paid; the Commission can put that forth to the Council.

## **9. ADJOURNMENT.**

Mr. Miranda made a motion to adjourn; seconded by Mr. Herrell and unanimously carried to adjourn the meeting at 7:00 pm.

**APPROVED:**

**DATE: January 22, 2014**